

**Amendments to the Claims:**

This listing of claims will replace all prior versions, and listings of claims in the application:

**Listing of Claims:**

1. (Currently amended) A transgenic plant characterized by suppressed flowering, comprising a nucleic acid molecule comprising a floral organ selective regulatory element from an *Arabidopsis API* gene, operatively linked to a nucleotide sequence encoding a cytotoxic gene product, wherein said nucleic acid molecule is heritable by progeny thereof.
2. (Canceled)
3. (Previously presented) The transgenic plant of claim 1, wherein said cytotoxic gene product is selected from the group consisting of diphtheria toxic A chain, RNase T1, Barnase Rnase, ricin toxin A chain, and herpes simplex virus thymidine kinase (tk) gene.
4. (Canceled)
5. (Canceled)
6. (Canceled)
7. (Currently amended) The transgenic plant of claim 1 ~~2~~, wherein said ~~*API*~~ regulatory element nucleic acid molecule comprises a fragment of at least 100 contiguous nucleotides of ~~has substantially the nucleotide sequence of *Arabidopsis API* promoter (SEQ ID NO:12), or an active fragment thereof.~~
8. (Currently amended) A tissue derived from the transgenic plant of any of claims 1, 3, or 7.

9. (Original) The tissue of claim 8, which is capable of non-vegetative propagation.
10. (Original) The tissue of claim 8, which is capable of vegetative propagation.
11. (Original) The plant of claim 1, wherein said plant is a woody plant.
12. (Original) The plant of claim 11, wherein said plant is a tree.
13. (Currently amended) A method of producing a transgenic plant characterized by suppressed flowering, comprising introducing into a plant an exogenous nucleic acid molecule comprising a floral organ selective regulatory element from an *Arabidopsis AP1* gene, wherein said regulatory element is operatively linked to a nucleotide sequence encoding a cytotoxic gene product, whereby flowering is suppressed due to selective expression of said exogenous nucleic acid molecule in said floral organ, and wherein said nucleic acid molecule is heritable by progeny thereof.
14. (Canceled)
15. (Canceled)
16. (Canceled)
17. (Canceled)
18. (Currently amended) The method of claim ~~13~~ 14, wherein said ~~AP1 regulatory element~~ nucleic acid molecule comprises a fragment of at least 100 contiguous

nucleotides of ~~has substantially the nucleotide sequence of *Arabidopsis API* promoter (SEQ ID NO:12), or an active fragment thereof.~~

19. (Previously presented) The method of claim 13, wherein said cytotoxic gene product is selected from the group consisting of diphtheria toxic A chain, RNase T1, Barnase Rnase, ricin toxin A chain, and herpes simplex virus thymidine kinase (tk) gene.

20. (Original) The method of claim 13, wherein the nucleic acid molecule is introduced into the plant by *Agrobacterium*-mediated transformation.

21. (Original) The method of claim 20, wherein *Agrobacterium tumefaciens* is used to introduce the nucleic acid molecule into the plant.

22. (Original) The method of claim 20, wherein *Agrobacterium rhizogenes* is used to introduce the nucleic acid molecule into the plant.

23. (Original) The transgenic plant of claim 1, wherein said plant is obtainable by a process comprising the steps of (i) introducing into a plant an exogenous nucleic acid molecule comprising a floral organ selective regulatory element, wherein said regulatory element is operatively linked to a nucleotide sequence encoding a cytotoxic gene product; (ii) identifying or selecting a population of plants whose flowering is suppressed; (iii) generating a progeny transgenic plant therefrom.

24. (Currently amended) An isolated nucleic acid molecule, comprising a floral organ selective regulatory element from an *Arabidopsis API* gene, operatively linked to a nucleotide sequence encoding a cytotoxic gene product.

25. (Canceled)

26. (Canceled)

27. (Canceled)

28. (Canceled)

29. (Currently amended) The isolated nucleic acid molecule of claim 24 ~~25~~, comprising at least 100 ~~fifteen~~ contiguous nucleotides of *Arabidopsis* ~~API~~ ~~promoter~~ (SEQ ID NO:12).

30. (Previously presented) The isolated nucleic acid molecule of claim 24, wherein said cytotoxic gene product is selected from the group consisting of diphtheria toxic A chain, RNase T1, Barnase Rnase, ricin toxin A chain, and herpes simplex virus thymidine kinase (tk) gene.

31. (Original) A kit for producing a transgenic plant characterized by suppressed flowering, comprising packaging containing a plant expression vector comprising a floral organ selective regulatory element from an *Arabidopsis* *API* gene, wherein the regulatory element is operatively linked to a nucleotide sequence encoding a cytotoxic gene product, and instructions for transforming a susceptible plant with said vector.

32. (Canceled)

33. (Previously presented) The kit of claim 31, wherein said cytotoxic gene product is selected from the group consisting of diphtheria toxic A chain, RNase T1, Barnase Rnase, ricin toxin A chain, and herpes simplex virus thymidine kinase (tk) gene.

34. (New) A method of creating a plant characterized by suppressed flowering, the method comprising,

generating one or more fragments of an *Arabidopsis AP1* gene;  
identifying a fragment comprising a floral organ selective regulatory element; and  
transforming a plant with the identified fragment operably linked to a cytotoxic  
gene product, thereby creating a plant characterized by suppressed flowering.

35. (New) The method of claim 34, wherein said cytotoxic gene product is  
selected from the group consisting of diphtheria toxic A chain, RNase T1, Barnase Rnase, ricin  
toxin A chain, and herpes simplex virus thymidine kinase (tk) gene.

36. (New) The method of claim 34, wherein identified fragment comprises at  
least 100 contiguous nucleotides of SEQ ID NO:12.